

State v. Huff

Case Number

A-16-0983

Court Number

Furnas

Call Date

September 14, 2017

Case Time

9:30 AM

Case Audio

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Case Summary**A-16-0983, State of Nebraska v. Herchel H. Huff (Appellant)**

District Court for Furnas County, District Judge James E. Doyle IV

Attorney for Appellant: Brian J. Davis (Berreckman Davis Law Firm)

Attorney for Appellee: Erin E. Tangeman (Attorney General's Office)

Postconviction Action: Claims of trial court error and ineffective assistance of trial counsel

Action taken by the Trial Court: Following the resolution of his direct appeals, stemming from his conviction of motor vehicle homicide and other charges, Huff filed a motion for postconviction relief. After an initial review of Huff's motion, the trial court dismissed a number of Huff's claims without an evidentiary hearing. Huff appealed, and the Nebraska Court of Appeals affirmed the dismissal of those claims. Subsequently, the State filed a motion to dismiss the remainder of Huff's postconviction claims. The trial court sustained the motion in part and overruled in part. Huff again appealed, and the Nebraska Court of Appeals affirmed. An evidentiary hearing was held on Huff's remaining postconviction claims as well as a motion to disqualify or recuse the judge hearing his postconviction motion. The present appeal arises from the trial court's order denying the remaining claims in Huff's postconviction motion following an evidentiary hearing.

Assignments of Error on Appeal: Did the trial court err in denying Huff's claim that the court violated his constitutional rights by allowing voir dire of prospective jurors to proceed in chambers outside of Huff's presence? Did the trial court err in denying Huff's claim that his trial attorneys were ineffective in not objecting or moving for a mistrial following the voir dire of prospective jurors in chambers outside of Huff's presence?

Extended Case Summary**A-16-0983, State of Nebraska v. Herchel H. Huff (Appellant)**

Original Trial Court: District Court for Furnas County, District Judge James E. Doyle IV

Background: Following a jury trial in 2010, Herchel H. Huff was convicted of motor vehicle homicide, among other charges. Following his direct appeals, Huff filed a motion for

postconviction relief in the district court for Furnas County. After an initial review of Huff's motion, the court dismissed a number of Huff's claims without an evidentiary hearing. Huff appealed, and the Nebraska Court of Appeals affirmed the dismissal of those claims. Subsequently, the State filed a motion to dismiss the remainder of Huff's postconviction claims. The court sustained the motion in part and overruled in part. Huff again appealed, and the Nebraska Court of Appeals affirmed. An evidentiary hearing was held in the district court on Huff's remaining postconviction claims as well as a motion to disqualify or recuse the judge hearing his postconviction motion. The present appeal arises from the district court's order denying the remaining claims in Huff's postconviction motion following an evidentiary hearing. Huff asserts both ineffective assistance of counsel and trial court error in connection with the in chambers voir dire (examination) of certain jurors conducted outside of his presence.

The Nebraska Court of Appeals will consider the following issues raised by Huff in his appellate brief:

1. Did the trial court err in denying Huff's claim that the court violated his constitutional rights by allowing voir dire of prospective jurors to proceed in chambers outside of Huff's presence?
2. Did the trial court err in denying Huff's claim that his trial attorneys were ineffective in not objecting or moving for a mistrial following the voir dire of prospective jurors in chambers outside of Huff's presence?

Attorneys: Brian J. Davis (Berreckman Davis Law Firm) (for appellant Huff); Erin E. Tangeman (Attorney General's Office) (for appellee the State)

Case Location

Hastings

Court Type

District Court

Panel Text

Moore, Chief Judge, Bishop, and Arterburn, Judges
